



#13/18(AE)  
JB  
681-0  
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Peter J. BURNS

Serial No.: 09/719,056 / 058

Group No.: 3764

Filed: February 7, 2001

Examiner: Michael A. Brown

For: MOUTHGUARD

Attorney Docket No.: U 013043-1

Mail Stop AF  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**FIRST AMENDMENT AFTER FINAL REJECTION**

In response to the Official Action of March 12, 2003, it is requested that the following amendments be made.

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JUN 17 2003

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**IN THE CLAIMS**

Amend the claims as follows:

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**CERTIFICATE OF MAILING (37 CFR 1.8a)**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231

JULIAN H. COHEN

(Type or print name of person mailing paper)

Date: June 11, 2003

  
(Signature of person mailing paper)

Corres. and Mail  
**BOX AF**

AF/3764

Attorney Docket No. U 013043-2

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: Peter J. BURNS

Serial No.: 09/719,056 **058**

Group No.: 3764

Filed: February 7, 2001

Examiner: Michael A. Brown

For: MOUTHGUARD

RESPONSE UNDER  
37 CFR 1.116  
EXPEDITED PROCEDURE  
EXAMINING GROUP  
3764

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**AMENDMENT OR RESPONSE AFTER FINAL REJECTION—TRANSMITTAL**

1. Transmitted herewith is an amendment after final rejection (37 CFR 1.116) for this application.

**NOTE:** Response to Final Rejection--Avoiding Extension Fees "In patent applications wherein a three month Shortened Statutory Period (SSP) is set for response to a Final Rejection; the response would best be filed within two months of the date of the Office Action. If filed within two months, any Advisory Action mailed after the SSP expires will reset the SSP to expire on the date of the Advisory Action for extension fee purposes, but never more than six months from the date of the Final Rejection." Notice of November 30, 1990 (1122 O.G. 571 to 591).

**CERTIFICATE OF MAILING /TRANSMISSION(37 CFR 1.8a)**

I hereby certify that this correspondence is, on the date shown below, being:

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☐ transmitted by facsimile to the Patent and Trademark Office

Date: June 11, 2003

Signature

JULIAN H. COHEN  
(type or print name of person certifying)

## STATUS

### 2. Applicant is

☒ a small entity. A verified statement:

☐ is attached.

☒ was already filed.

☐ other than a small entity

## EXTENSION OF TERM

NOTE: As to a Supplemental Amendment filed in response to a final office action the Notice of December 10, 1985 (1061 O.G. 34-35) states:

*"If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run."*

(complete (a) or (b) as applicable)

### 3.

- (a) ☐ Applicant petitions for an extension of time under 37 CFR 1.36 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<input type="checkbox"/> one month	\$ 110.00	\$ 55.00
<input type="checkbox"/> two months	\$ 410.00	\$ 205.00
<input type="checkbox"/> three months	\$ 930.00	\$ 465.00
<input type="checkbox"/> four months	\$1,450.00	\$ 725.00

Fee \$ \_\_\_\_\_

If additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

- ☐ An extension for \_\_\_\_\_ months has already been secured and the fee paid therefor of \$\_\_\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ \_\_\_\_\_

OR

- (b) ☒ Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

(Amendment or Response After Final Rejection Transmittal [9-20]—page 2 of 4)

## FEE FOR CLAIMS

4. The fee for claims (37 CFR 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)	SMALL ENTITY		OTHER THAN A SMALL ENTITY CLAIMS	
REMAINING AFTER AMENDMENT	HIGHEST NO PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDIT. FEE	OR	ADDIT. RATE FEE
TOTAL *	MINUS **	=	x 11=	\$		x 22= \$
INDEP. *	MINUS ***	=	x 40=	\$		x 80= \$
<input type="checkbox"/> FIRST PRESENTATION OF MULTIPLE DEP. CLAIM				+ 130=	\$	+ 260 \$
						TOTAL \$
				ADDIT. FEE	\$	

\* If the entry in Col. 1 is less than entry in Col. 2 write "0" in Col. 3

\*\* If the "Highest No. Previously Paid for" IN THIS SPACE is less than 20, enter "20"

\*\*\* If the "Highest No. Previously Paid For" IN THIS SPACE is less than 3, enter "3"

The "Highest No. Previously Paid For" (Total or indep.) is the highest number found in the appropriate box in col. 1 of a prior amendment or the number of claims originally filed.

**WARNING:** "After final rejection or action ( § 1.113) amendments may be made cancelling claims or complying with any requirements of form which has been made." 37 CFR § 1.116(a) (emphasis added).

(complete (c) or (d) as applicable)

- (c) ☒ No additional fee for claims is required

OR

- (d) ☐ Total additional fee for claims required \$ \_\_\_\_\_

## FEE PAYMENT

5. ☐ Attached is a check in the sum of \$ \_\_\_\_\_

☐ Charge Account No. \_\_\_\_\_ the sum of \$ \_\_\_\_\_

A duplicate of this transmittal is attached.

## FEE DEFICIENCY

**NOTE:** *Where there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the case. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986 (1065 O.G. 31-33).*

6. ☒ If any additional extension and/or fee is required charge Account No. 12-0425

## AND/OR

- ☒ If any additional fee for claims is required, charge Account No. 12-0425.



SIGNATURE OF ATTORNEY  
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